

567—65.9 (459,459B) Preconstruction submittal requirements. Prior to beginning construction, expansion or modification of a confinement feeding operation structure, a person shall obtain from the department a construction permit pursuant to subrule 65.7(1), a construction approval letter pursuant to subrule 65.7(7) or approval of a secondary containment barrier design pursuant to subrule 65.9(8), according to procedures established in this rule:

65.9(1) Construction permit application. Application for a construction permit for a confinement feeding operation shall be made on a form provided by the department. The application shall include all of the information required in the form. At the time the department receives a complete application, the department shall make a determination regarding the approval or denial of the permit in accordance with subrule 65.10(5). A construction permit application for a confinement feeding operation shall be filed as instructed on the form and shall include the following:

a. The name of the applicant and the name of the confinement feeding operation, including mailing address and telephone number.

b. The contact person for the confinement feeding operation, including mailing address and telephone number.

c. The location of the confinement feeding operation.

d. Whether the application is for the expansion of an existing operation or the construction of a proposed confinement feeding operation, and the date when it was first constructed if an existing operation.

e. The animal unit capacity by animal species of the current confinement feeding operation to be expanded, if applicable, and of the proposed confinement feeding operation. If the confinement feeding operation includes a confinement feeding operation structure that was constructed prior to March 1, 2003, the animal weight capacity by animal species of the current confinement feeding operation to be expanded, if applicable, and of the proposed confinement feeding operation shall also be included.

f. Engineering documents. A confinement feeding operation that utilizes an unformed manure storage structure, an egg washwater storage structure or a formed manure storage structure at an operation that meets the threshold requirements for an engineer as defined in 567—65.1(459,459B) shall include an engineering report, construction plans and specifications. The engineering report, construction plans and specifications must be prepared and signed by a licensed professional engineer or by an NRCS qualified staff person, must detail the proposed structures, and must include a statement certifying that the manure storage structure complies with the requirements of Iowa Code chapter 459. In addition, a qualified soils or groundwater professional, licensed professional engineer or NRCS qualified staff shall submit a hydrogeologic report on soil corings in the area of the unformed manure storage structure or egg washwater storage structure as described in subrules 65.15(6) to 65.15(13).

g. Construction design statement or professional engineer design certification. A confinement feeding operation that uses a formed manure storage structure and that is below the threshold requirements for an engineer as defined in 567—65.1(459,459B) shall submit a construction design statement pursuant to subrule 65.9(6) or a professional engineer design certification pursuant to subrule 65.9(7).

h. Payment to the department of the indemnity fund fee as required in Iowa Code section 459.502.

i. If the construction permit application is for three or more confinement feeding operation structures, a drainage tile certification shall be submitted as follows:

(1) If the application is for an unformed manure storage structure, an egg washwater storage structure or a formed manure storage structure that meets the threshold requirements for an engineer as defined in 567—65.1(459,459B), a licensed professional engineer shall certify that either the construction of the structure will not impede the drainage through established drainage tile lines which cross property boundary lines or that if the drainage is impeded during construction, the drainage tile will be rerouted to reestablish the drainage prior to operation of the structure.

(2) If the application is for a formed manure storage structure that does not meet the threshold engineering requirements, a drainage tile certification shall be submitted as part of the construction design

statement pursuant to subrule 65.9(6) or as part of the professional engineer design certification pursuant to subrule 65.9(7).

j. Information (e.g., maps, drawings, aerial photos) that clearly shows the proposed location of the confinement feeding operation structures, any existing confinement feeding operation structures, any locations or objects from which a separation distance is required by Iowa Code sections 459.202, 459.203 and 459.310, and that the structures will meet all applicable separation distances. For an unformed manure storage structure, an egg washwater storage structure or a formed manure storage structure that meets the threshold requirements for an engineer as defined in 567—65.1(459,459B), the maps, drawings or aerial photos must be signed by a professional engineer licensed in Iowa or be prepared by NRCS qualified staff. If applicable, a copy of a recorded separation distance waiver, pursuant to paragraph 65.12(1) “*b*,” must be included with the application. Also, if applicable, a secondary containment barrier design, pursuant to subrules 65.9(8) and 65.12(7), shall be included.

k. The names of all parties with an interest or controlling interest in the confinement feeding operation who also have an interest or controlling interest in at least one other confinement feeding operation in Iowa, and the names and locations of such other operations.

l. Copies of the manure management plan pursuant to 567—65.16(459,459B).

m. A construction permit application fee of \$250 and, if applicable, the manure management plan filing fee of \$250 as required in subrule 65.16(7).

n. Rescinded IAB 2/19/03, effective 3/1/03.

o. Soil information indicating whether the proposed location contains soils classified as alluvial, pursuant to subrule 65.9(4). If the proposed location contains soils classified as alluvial, a copy of the department’s determination that the proposed location is not in a one hundred year floodplain, and a floodplain development permit pursuant to 567—Chapters 70 to 76, if required, shall be included.

p. A copy of any master matrix evaluation provided to the county.

q. Information indicating whether the proposed location is in karst terrain pursuant to subrule 65.9(5). If the proposed location is in karst terrain, a soils exploration study or a statement from qualified department staff that a soils exploration study is not needed shall be included.

r. A livestock odor mitigation evaluation certificate issued by Iowa State University as provided in Iowa Code section 266.49. The applicant is not required to submit the certificate if any of the following apply:

(1) The confinement feeding operation is twice the minimum separation distance required from the nearest object or location from which a separation distance is required pursuant to Iowa Code section 459.202 on the date of the application, not including a public thoroughfare.

(2) The owner of each object or location which is less than twice the minimum separation distance required pursuant to Iowa Code section 459.202 from the confinement feeding operation on the date of the application, other than a public thoroughfare, executes a document consenting to the construction.

(3) The applicant submits a document swearing that Iowa State University has failed to furnish a certificate to the applicant within 45 days after the applicant requested the University to conduct a livestock odor mitigation evaluation as provided in Iowa Code section 266.49.

(4) The application is for a permit to expand a confinement feeding operation, if the confinement feeding operation was first constructed before January 1, 2009.

(5) Iowa State University does not provide for a livestock odor mitigation evaluation effort as provided in Iowa Code section 266.49, for any reason, including because funding is not available.

s. Documentation that copies of all the construction permit application documents have been provided to the county board of supervisors or county auditor in the county where the operation or structure subject to the permit is to be located, and documentation of the date received by the county.

65.9(2) *Open feedlots.* Rescinded IAB 9/14/05, effective 9/14/05.

65.9(3) *Construction approval letter.* A confinement feeding operation that, pursuant to subrule 65.7(7), is required to obtain a construction approval letter as defined in 567—65.1(459,459B), but that

is not required to obtain a construction permit pursuant to subrule 65.7(1), shall file with the department, at least 30 days prior to the date the proposed construction is scheduled to begin, all of the following:

- a. A construction design statement pursuant to subrule 65.9(6). In lieu of a construction design statement, a professional engineer design certification pursuant to subrule 65.9(7) may be submitted.
- b. The results of the alluvial soils information pursuant to subrule 65.9(4) or a copy of the department's declaratory order that the location is not in the one hundred year floodplain pursuant to paragraph 65.8(3)"e" and a copy of the department's floodplain development permit pursuant to 567—Chapters 70 to 76, if required.
- c. The results of the karst terrain determination pursuant to subrule 65.9(5).
- d. A copy of the manure management plan pursuant to 567—65.16(459,459B).
- e. Information (e.g., maps, drawings, aerial photos) that clearly shows the intended location of the confinement feeding operation structures and animal weight capacities of any other confinement feeding operations within a distance of 2,500 feet in which the owner has an ownership interest or which the owner manages.
- f. A fee of \$250 for filing a manure management plan pursuant to subrule 65.16(7) and a manure storage indemnity fee pursuant to subrule 65.16(6).
- g. Documentation that the board of supervisors or auditor of the county where the confinement feeding operation structure is proposed to be located received a copy of the manure management plan.

65.9(4) *One hundred year floodplain or alluvial soils submittal requirements.* Prior to beginning construction or expansion of a confinement feeding operation, the person planning the construction shall determine whether the proposed confinement feeding operation structure will be located in soils classified as alluvial as defined in 567—65.1(459,459B) and pursuant to paragraph 65.8(3)"e." The alluvial soils determination shall be obtained by consulting a qualified department staff person, a soils professional normally engaged in the practice of soil investigation, or NRCS qualified staff. The AFO Siting Atlas may be a tool used to assist in the alluvial soil determination. The one hundred year floodplain information or the alluvial soils determination shall be submitted to the department according to the following:

- a. If the proposed location is not in the one hundred year floodplain or alluvial soils, the person planning the construction shall submit a printed map clearly showing the location of each proposed confinement feeding operation structure or a written statement from qualified department staff, a soils professional normally engaged in the practice of soil investigation or NRCS qualified staff, with the construction permit application documents as required in subrule 65.9(1) or with the construction design statement as required in subrule 65.9(3) if a construction permit is not required.
- b. If one hundred year floodplain information is not available and the proposed location is in alluvial soils, the person planning the construction shall petition the department for a declaratory order or a determination according to procedures required in subrule 65.7(9). It is recommended that the person planning the construction consult with qualified department staff before petitioning for a declaratory order or a determination. The department's determination indicating that the location is not in the one hundred year floodplain and a copy of the department's floodplain development permit pursuant to 567—Chapters 70 to 76, if required, must be submitted with the construction permit application documents pursuant to subrule 65.9(1). If a construction permit is not required pursuant to subrule 65.7(1), the department's declaratory order indicating that the location is not in the one hundred year floodplain and a copy of the department's floodplain development permit pursuant to 567—Chapters 70 to 76, if required, must be submitted when a construction design statement is filed pursuant to subrules 65.9(3) and 65.9(6).

65.9(5) *Karst terrain submittal requirements.* Prior to beginning construction of a confinement feeding operation, the person planning the construction shall determine whether the proposed confinement feeding operation structure will be located in karst terrain, as defined in 567—65.1(459,459B). The karst terrain determination shall be obtained by consulting a qualified department staff person, a soils professional normally engaged in the practice of soil investigation

or NRCS qualified staff. The AFO Siting Atlas may be a tool used to assist in the karst terrain determination. The results of the karst terrain determination shall be submitted to the department according to the following:

a. If the proposed location is not in karst terrain, the person planning the construction, other than a small animal feeding operation, shall submit a printed map from the AFO Siting Atlas clearly showing the location of each proposed confinement feeding operation structure or a written statement by a qualified department staff person, a soils professional normally engaged in the practice of soil investigation or NRCS qualified staff with the construction permit application documents pursuant to subrule 65.9(1) or with the construction design statement pursuant to subrule 65.9(3) if a construction permit is not required.

b. If the proposed location is in karst terrain, the person planning the construction shall submit a printed map from the AFO Siting Atlas clearly showing the location of each proposed confinement feeding operation structure and a copy of the soils exploration study required in paragraph 65.15(14) “*c*” with the construction permit application pursuant to subrule 65.9(1) or with the construction design statement pursuant to subrule 65.9(3) if a construction permit is not required. In lieu of a printed map, a statement from a qualified department staff person, a soils professional normally engaged in the practice of soil investigation or NRCS qualified staff explaining the karst terrain determination may be submitted. It is recommended that the person planning the construction consult with a qualified staff person of the department before obtaining the soil borings. A formed manure storage structure, other than a small animal feeding operation, shall be constructed according to the upgraded concrete standards set forth in paragraph 65.15(14) “*c*” or Iowa Code section 459.307 if the structure is not constructed of concrete. Nonetheless, construction of an unformed manure storage structure in karst terrain is prohibited.

65.9(6) Construction design statement. Prior to beginning construction of a formed manure storage structure, a person planning construction at a confinement feeding operation, other than a small animal feeding operation, that is below the threshold requirements for an engineer as defined in 567—65.1(459,459B) shall file with the department a construction design statement, as follows:

a. A confinement feeding operation with an animal unit capacity of more than 500 but less than 1,000 animal units that is required to obtain a construction approval letter from the department pursuant to subrule 65.7(7) but that is not required to obtain a construction permit pursuant to subrule 65.7(1) shall file with the department a construction design statement, as required in subrule 65.9(3). Within 30 days after filing of a construction design statement, the department may issue a construction approval letter as defined in 567—65.1(459,459B) if the proposed formed manure storage structure meets the requirements of this chapter.

b. A confinement feeding operation that has an animal unit capacity of 1,000 animal units or more but that is below the threshold requirements for an engineer as defined in 567—65.1(459,459B) shall file a construction design statement as part of the construction permit application and as required in subrule 65.9(1).

c. The construction design statement shall be filed on a form provided by the department and shall include all of the following:

(1) The name of the person planning construction at the confinement feeding operation, the name of the confinement feeding operation, the location of the proposed formed manure storage structure, a detailed description of the type of confinement feeding operation structure being proposed, the dimensions of the structure, and whether the structure will be constructed of reinforced concrete or steel.

(2) A manure management plan pursuant to 567—65.16(459,459B).

(3) A certification signed by the person responsible for constructing the formed manure storage structure that the proposed formed manure storage structure will be constructed according to the minimum concrete standards set forth in subrule 65.15(14). Otherwise, if the formed manure storage structure is to be constructed of steel, including a Slurry Store tank, a certification signed by the person responsible for constructing the formed manure storage structure that the proposed formed manure storage structure will be constructed according to the requirements of Iowa Code chapter 459 and 567—Chapter 65.

(4) If the confinement feeding operation is also required to obtain a construction permit at a confinement feeding operation proposing three or more confinement feeding operation structures, the construction design statement shall include a drainage tile certification signed by the person responsible for constructing or excavating the formed manure storage structure, shall certify that construction will not impede established existing drainage, and shall verify that if existing drainage tiles are found, corrective actions will be implemented to immediately reestablish existing drainage.

d. The following operations are not required to file a construction design statement with the department:

- (1) A small animal feeding operation that constructs a formed manure storage structure.
- (2) A confinement feeding operation that submits a professional engineer design certification pursuant to subrule 65.9(6).
- (3) A confinement feeding operation that meets or exceeds threshold requirements for an engineer as defined in 567—65.1(459,459B).
- (4) A confinement feeding operation that utilizes an unformed manure storage structure or an egg washwater storage structure.

65.9(7) Professional engineer design certification. In lieu of a construction design statement prior to beginning construction of a formed manure storage structure, a confinement feeding operation, other than a small animal feeding operation, that is below the threshold requirements for an engineer pursuant to 567—65.1(459,459B) may file with the department a professional engineer design certification and design plans signed by a professional engineer licensed in the state of Iowa or an NRCS qualified staff person. The professional engineer design certification shall be site-specific and shall be filed on a form provided by the department as follows:

a. A confinement feeding operation with an animal unit capacity of more than 500, but less than 1,000, animal units that is not required to obtain a construction permit pursuant to subrule 65.7(1) shall file with the department, at least 30 days before beginning construction of a formed manure storage structure, the professional engineer design certification as required in subrule 65.9(3). Within 30 days after filing of a professional engineer design certification, the department may issue a construction approval letter if the proposed formed manure storage structure meets the requirements of this chapter.

b. A confinement feeding operation with an animal unit capacity of 1,000 animal units or more that is required to obtain a construction permit pursuant to subrule 65.7(1) but that is below the threshold requirements for an engineer pursuant to 567—65.1(459,459B) shall file with the department the professional engineer design certification as part of the construction permit application and as required in subrule 65.9(1).

65.9(8) Secondary containment barrier design submittal requirements. The design for a secondary containment barrier to qualify any confinement feeding operation for the separation distance exemption provision in subrule 65.12(7) shall be filed with the department for approval prior to beginning construction of a formed manure storage structure that is part of a small animal feeding operation, shall accompany the construction design statement pursuant to subrule 65.9(3) if a construction permit is not required, or shall be filed as part of the construction permit application pursuant to subrule 65.9(1). The secondary containment barrier shall meet the design standards of subrule 65.15(17) and shall be prepared according to the following:

a. If a manure storage structure stores liquid or semiliquid manure, the secondary containment barrier design shall include engineering drawings prepared and signed by a professional engineer licensed in the state of Iowa or an NRCS qualified staff person. For purposes of this subrule only, semiliquid manure means manure that contains a percentage of dry matter that results in manure too solid for pumping, but too liquid for stacking.

b. If the manure storage structure will store only dry manure, the owner or a representative of a confinement feeding operation shall submit to the department detailed drawings of the design for a secondary containment barrier.

[**ARC 8998B** , IAB 8/11/10, effective 9/15/10; **ARC 2798C** , IAB 11/9/16, effective 12/14/16]